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Subject: NORWAY,S FIRST TERROR TRIAL: INNOCENT ON TERROR, GUILTY
ON WEAPONS CHARGES
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Additional Addressees:
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TAGS: [ASEC](#) [KCRM](#) [PREL](#) [PTER](#) [NO](#)
SUBJECT: NORWAY,S FIRST TERROR TRIAL: INNOCENT ON TERROR,
GUILTY ON WEAPONS CHARGES

Classified By: Deputy Chief of Mission, Kevin M. Johnson,
for reasons 1.4 b and d

1.(SBU) SUMMARY: Arfan Bhatti, the accused ringleader of an
alleged plot against the US and Israeli Embassies in
September 2006 (Reftel and subsequent cables) was acquitted
of terrorism charges in a Norwegian court on 3 June 2008.

Bhatti was convicted of weapons violations in relation to shooting at the Jewish Synagogue in September 2006, but the judge vehemently stated this shooting was not a terrorist act. Bhatti was also convicted of an unrelated weapons charge and for being an accessory to attempted murder. The judge sentenced Bhatti to eight years in prison, with a review of the sentence after four years. Two others were acquitted of all charges. A fourth individual arrested at the same time as Bhatti was never formally charged. This outcome, after Norway's first use of their Terrorism Law, raises serious questions as to whether the law's high threshold for prosecuting terrorist acts is adequate in today's world and what precedence this verdict will have in future cases. END SUMMARY.

----- THE JUDGE'S DECISIONS -----

2.(U) The verdicts and sentence were read by Judge Kim Hegar in a lengthy morning session that was covered live by several media outlets. Hegar went into long explanations justifying each decision he made. Hegar justified all of his decisions by stating that Bhatti is a known criminal with a long history of violent crime, but the judge was forced to follow the requirements of several laws, including the Terror Law, and so could not find him guilty of terrorism offenses.

13. (U) In finding Bhatti not guilty of Conspiracy to Plan a Terrorist Act, Hegar admitted that Bhatti and his accomplice Bog Kristiansen discussed plans to inflict casualties on American and Israeli diplomats as they drove by the embassies, but the prosecutor was not able to prove that Kristiansen ever entered into a binding and intentional agreement to carry out the act discussed. This agreement is required to prove a conspiracy existed. The second issue that was not proven, but is required to prove guilt, is that the terror plan must be executable. The defense attorney had dismissed the conversation as an emotional outburst and wish, but argued that it never materialized into an actual plan and no weapons or written plans were ever discovered by police. Judge Hegar agreed with this and stated that the prosecution could not prove beyond the conversation, as incriminating, frightening, and threatening as it was, that there was an actual plan that could be carried out. Hegar added that although the conversation laid out the plans to attack both embassies, no formal steps (such as acquiring weapons) were taken to initiate the attack. Hegar closed by commenting that Norway's anti-terror law requires an unusually large amount of evidence that the plan will be carried out willfully and intentionally.

14. (SBU) Hegar then discussed the shooting of the unoccupied Jewish Synagogue. Hegar found Bhatti guilty of contributing to this shooting, but admitted the gun had never been located, nor could it be proven who pulled the trigger. Hegar spent the majority of his time justifying his position that the shooting at the Synagogue was an act of serious vandalism, and with that should be considered a criminal act. COMMENT Had the judge ruled this shooting to be an act of terror, it would have nullified the judge's earlier ruling that no actionable terror plan existed as the Synagogue shooting was also mentioned during the Bhatti and Kristiansen taped conversation. END COMMENT.

15. (U) Bhatti was also convicted of a weapons charge and attempted murder in the shooting of a residence of a leader of a failed pyramid scheme who owed Bhatti a large sum of money. When shots were fired, the only occupant in the residence was the 70-year-old mother of the target.

16. (C) After the verdicts were read, the judge then sentenced Bhatti to eight years of harsh confinement. Known as "forvaring" in Norwegian, this sentence can be shortened or extended during routine court reviews of the sentence and is the most severe type of punishment possible in Norway. The judge ordered the first review of the sentence after four years. Thus Bhatti's ultimate sentence could be as short as four years or as long as life, depending on the judge who

will review his case. With Bhatti in custody since his arrest in early September 2006, the first mandatory review is only 27 months away and will be scheduled in the fall of 2010. This sentence, although less than the prosecutor's requested 10 years, is extreme under Norwegian standards, especially considering the crimes of which Bhatti was actually convicted. Police sources are confident that they will be able to find and present enough evidence to the judge to keep Bhatti in custody for the full eight year sentence.

----- GOVERNMENT OF NORWAY REACTION -----

¶17. (U) The only public reaction from the government has been statements by the head of Norway's National Police, Jorn Holme, who stated that he was reasonably satisfied with the verdict. Holme claims that without police surveillance, Bhatti would be free now and that the verdict will not make it more difficult for the police to prosecute terrorist acts.

¶18. (C) Although Oslo and National Police are trying to shed a positive light on the sentence and the fact that they have taken a dangerous individual off the street for many years, privately the police are calling the verdicts a "very dark day for the Police." The police believed they had a strong terror case against Bhatti and now question the future of their anti-terror efforts. The National Police are already preparing for a terrorism financing case where once again the question of an executable plan, as well as the knowing and willfully requirements will be a major hurdle.

----- EMBASSY PRESS COMMENTS -----

¶19. (C) In comments to the press, the Ambassador expressed surprise and disappointment with the verdict, stressing that shooting at a synagogue with an automatic weapon must be considered terrorism and not vandalism, especially given the other attacks the defendants discussed. The Ambassador praised the police decision to press charges but raised questions over the legislative tools available in Norway to prosecute terrorists. Note: The Embassy raised similar concerns with the GON and presented interagency comments on draft changes when the law was revised in summer 2007.

----- SECURITY IMPLICATIONS -----

¶10. (C) Prior to the verdicts and sentence being announced, the Embassy held an EAC meeting to discuss the Independence Day events, the recent bombing in Islamabad, and the current security posture (reported SEPTEL). With Bhatti remaining in custody, Post management does not believe an additional EAC is warranted and that the current security posture is adequate.

-----APPEALS-----

¶11. (C) Both the prosecution and the defense have two weeks to appeal the decisions handed down by Judge Hegar. Norway's legal system does not prohibit double jeopardy, allowing the prosecutions to appeal the verdict and sentence. Immediately following adjournment of the proceedings, the prosecutor was quoted by media and bystanders as stating that he would appeal. Police sources have stated in retrospect, that the prosecutor must accept the fact that the sentence imposed met the goal of the Government, and any appeal could jeopardize the sentence. The same police sources expect an automatic appeal by Bhatti's defense as this sentence is extremely harsh under Norwegian standards. Needless to say, this case is far from over and sources expect this case will eventually reach the Norwegian highest court.

WHITNEY